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**jections—Failure to Determine—Evidence.**—In a suit to enjoin proceeding with street paving, and for general relief, evidence held to sustain a finding that the objections of complainant property owner had not been overruled, as required by Acts 1912, c. 160, providing for objections and appeals, and that subsequent proceedings were void.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 884.]

**7. Municipal Corporations (§ 323 (3)\*)—Public Improvements—Injunction—Relief.**—A paving committee and the city council overruled a property owner's claims for damage, but failed to notify him of the rejection of such claims, so as to enable him to appeal. Thereafter the property owner sued to enjoin the construction of the improvement and for general relief. Held, that as it was for the council to determine what streets it will pave and the character of the paving, and its decision, in the absence of fraud, is conclusive, and cannot be controlled by the courts, a decree which, after requiring the council to ascertain the damage which might accrue to complainant by reason of the improvement, required the completion of the improvement according to specifications, is erroneous as to the last requirement, and an injunction should be dissolved on condition that the municipality, if desiring to complete the improvement in front of complainant's property, should proceed according to the statute, with leave to complainant, in case he has been damaged, to sue at law.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 883.]

Appeal from Circuit Court, Wise County.

Bill by one Mainous against the Town of Appalachia. From a decree for complainant, defendant appeals. Reversed in part.

*C. R. McCorkle*, of Wise, for appellant.

*Morton & Parker*, of Appalachia, for appellee.

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BROTHERHOOD OF RAILROAD TRAINMEN *v.* VICKERS.

Sept. 20, 1917.

[93 S. E. 577.]

**1. Pleading (§ 193 (5)\*)—Demurrer to Declaration—Grounds.**—A demurrer was properly overruled, where the declaration stated a case, and facts were sufficiently certain to be understood by defendant.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 502.]

**2. Witnesses (§ 343\*)—Impeachment—Time of Acquiring Reputation.**—Reputation for truth and veracity of a party who is a witness,

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

and whose character is not in issue, the case not being a criminal one, nor the party's moral turpitude being alleged, is not limited to general reputation ante litem motam, and he stands in the same position as any other witness in that respect.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 970.]

**3. Witnesses (§ 83\*)—Competency—Parties in Civil Actions.**—The fact that witnesses are parties to the litigation affects their credibility, but not their competency.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 906.]

**4. Witnesses (§ 343\*)—Impeachment—Place of Acquiring Reputation.**—The place of acquiring reputation for which a witness may be impeached is not confined to his actual residence.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 970.]

**5. Witnesses (§ 343\*)—Impeachment—Place of Acquiring Reputation.**—In a trainman's action for interference with his seniority rights incident to the employment, fellow workmen at the termini of the road and along the route were proper character witnesses to impeach his general reputation for truth and veracity, plaintiff having testified as a witness, and it was immaterial that they did not reside in his neighborhood.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 970.]

Error to Corporation Court of Bristol.

Action by W. T. Bickers against the Brotherhood of Railroad Trainmen. Judgment for plaintiff, and defendant brings error. Reversed.

*John W. Price*, of Bristol, *J. C. Wilburn*, of Knoxville, Tenn., and *F. W. De Friece*, of Bristol, for plaintiff in error.

*Gilmer & Stant* and *Geo. M. Warren*, all of Bristol, for defendant in error.

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SCHOOL BOARD OF LIPPS DIST. NO. 4 OF WISE COUNTY  
v. SAXON LIME & LUMBER CO.

Sept. 20, 1917.

[93 S. E. 579.]

**Contracts (§ 4\*)—Implied Contracts—Quantum Meruit.**—The contractor, who had agreed to construct a school building, entered into a contract with plaintiff for the millwork. Before the millwork material was delivered, the contractor became a bankrupt, and he failed or refused to accept shipments of millwork made on the day he filed his petition in bankruptcy and the day following. Plaintiff notified the carrier's agent not to deliver the shipments to any one except on a written order, but, notwithstanding the instructions, the ma-

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.